CASE AND COMMENT

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Shall Employers be Absolutely Liable for Injuries to Employees?

One plank in a local platform of the Socialistic party at the recent election promised that, in case that party was placed in power, it would enact legislation making employers liable for accidents to employees while at their work. This is a broad promise, and it is doubtful if its authors would go to its full extent had they the power to do so. But society must face the question as to how far it is desirable to make the loss due to injuries to employees a part of the cost of the product, and throw the burden on the general consumer. This is, of course, where it would fall. Even though the platform may, for the purpose of securing votes, state that the burden would be placed on the employer, its architect, if he has intelligence enough to be intrusted with the affairs of state, must know that it could not, under any circumstances, be made to rest there, but would be cast upon the public at large, because the public is the consumer, and must bear the entire cost of production when that cost has become recognized as an inherent part of it. When voter or candidate sees that he, as consumer, is the one who, under the promised legislation, must reimburse the injured employee, he will be far less likely to demand legislation which will relieve the employee from his own burden than when the promise is made to masquerade under the idea that it is a blow against capital. But the answer to the main question must be dictated by principles of justice, and not by self- interest. If, under any circumstances, equity demands that the risks necessarily incident to a particular calling shall be borne by the consumer, he should not refuse to perform his duty in that regard merely because he has the power to do so. In the absence of statute, the courts place the burden as nearly as possible upon the one by whose fault the injury is caused. When the matter is left to the courts, the burden in fact falls more nearly upon the employer in case he is at fault, than it would in case the legislature attempted to regulate it. When an employer is competing for trade in the open market, other things being equal, the less the cost of his product, the greater his chance of securing a profit; and he cannot therefore, add greatly to the cost through his own negligence in injuring employees. His more careful rival will be likely either to undersell him, and get the trade, or do a successful business at prices which would ruin him. But, if the legislature makes the business liable for all injuries to employees, the item will, like insurance, or other fixed charges, be figured in the cost of production, and all manufacturers alike will add the sum to manufacturing cost, so that it will not enter to any material degree into the general problem of competition, but will appear in the price put upon the product. Therefore, the question again arises, In what cases should the product bear this burden? It is self-evident that it should not do so if the injury is caused by the negligence or fault of either employer or employee. In either the one or the other of these classes are most of the cases which come before the courts, and the courts are perfectly capable of dealing with these cases without the aid of legislation. It is to be presumed that neither the working man nor the employer would

seriously contend that the public ought to reimburse him for loss due to his own carelessness. There is a small class of cases, however, in which it may be just that the public bear the burden of the accidents incident to the business out of which they arise. This class grows out of those industries which are most necessary to the public welfare, and which are so hazardous that ordinary prudence is not an adequate protection against accidents. In the great mass of the industries, the risks are so slight that they may be avoided by ordinary care on the part of the employer and employee, and there is no reason why the legislature should interpose to relieve those engaged in them from the loss which they might avoid by the care employed by the ordinarily prudent man. But, when the necessities of the public, or even its great convenience, requires the prosecution of an enterprise which is so hazardous that experience shows that ordinary care will not protect those engaged in it from accidents, remuneration to the injured should, where they are not themselves at fault, be part of the cost which the public should be required to pay for supplying its needs, and the legislature, as the representative of the public, may well enact laws for this purpose. Outside of this small class of cases, however, there would seem to be no reason why the legislature should interfere to relieve men from the result of their own acts; and the constitutionality of an attempt to do so may well be questioned.

What is said above is not intended to cover the question of liability for injuries caused by negligence of coemployees. That is a distinct question, which may be ruled by different principles, and is reserved for future consideration.

The Conflict between Constitutional Rights and the Public Welfare.

"The maxim, *salus populi est suprema lex*, is the foundation of all police law, and to it even rights of property and liberty which are protected by the Constitution must give way. When danger threatens the commonwealth, there arises that overruling necessity which knows no law." It seems strange that the above should be an utterance from the bench of a supreme court judge who had sworn to support the Constitution, rather than that of a political orator or the leader of a mob, who was trying to secure his followers' consent to a lynching. But such is the fact, although, fortunately, it appeared in a dissenting opinion. The maxim which is the foundation of the utterance is a relic of barbarism, formulated before the principles of Christianity were generally diffused, and before the discoveries of science had made it possible to show the foolishness of the fears and superstition of men. The history of the world is replete with instances where the blind and ignorant populace, inflamed by passion, or desperate from fear, ruthlessly sacrificed the individual to some fancied good of its own, and justified its act by the idea that the public welfare demanded it. The modern constitutions were intended to protect the individual from such assaults; and a judge, who is commissioned upon the express condition that he uphold the Constitution, has a very inadequate conception of the obligations of his office when he permits himself to be carried away by the popular clamor for some fancied public good to such an extent that he can say that even rights of property and liberty which are protected by the Constitution must give way before it. It is almost impossible to conceive of a case where, under modern conditions, it would be necessary to apply such a maxim in such a manner as to destroy the constitutional rights of the citizen. The facts calling forth the utterance are a fair illustration of the extreme to which the popular interpretation of the maxim may permit the public to go. An elderly lady of culture and refinement was found to be afflicted with a form of leprosy which was very slightly, if at all, contagious. She had lived in the community for years, moving in and out among the people without any suspicion that the disease had been communicated to anyone. Suddenly, for some reason undisclosed, but which might easily be imagined to be the hatred of an enemy, the clamor of an

unlearned disciple of health, carried away with enthusiasm for the uplift of the race, the influence of a devotee of science without adequate knowledge thereof or mere popular superstition or fear, the board of health ordered her removal to the pesthouse,—a place unfit for any human being to be placed in, and her removal to which would, in all probability, mean her death. The very fact that the judge was willing to consent to such an outrage shows the thin barrier which our Constitution and our civilization offer to the total destruction of our most cherished liberties. The evidence in the case and years of experience showed that the slightest precautions would be sufficient to protect the public from any contagion, and yet, a few men had been given arbitrary power practically to condemn the lady to death, and they had passed the decree and were proceeding to execute it when stopped by injunction. If the maxim is in any case to be allowed operation in matters of life and liberty, it should be only after the responsible authorities have demonstrated the necessity and only to the extent to which the necessity is demonstrated. In these days it is possible in most cases to get the scientific facts, and before action is taken the facts making it necessary should be produced. No reliance should be permitted upon tradition, popular clamor, fear, superstition, the tentative *dictum* of science, or any other thing short of a demonstration that the destruction of the rights of an individual is imperative to the welfare of the public. If the public were compelled to prove its case as other litigants are, and as the Constitution requires under the due-process clause, the cases of outrage to individuals would be exceedingly rare. Demonstration would, in fact, be due process of law, and the Constitution would be preserved. The error comes in permitting a mere assertion to establish necessity. So long as it may be established in that way, Constitutions might as well be left unwritten. Slight experience or historical knowledge is required to exemplify the fact that the people, either in a body or through their representatives, are far too prone to assume that their welfare demands the suppression, or even obliteration, of private rights, and to act upon the assumption, only to find later that they were entirely mistaken, and that they had in fact been guilty of a crime against their victims. The judges should see to it that this is not possible under the Constitutions.

Professional Narrowness.

The patriarch who has never been out of sight of the house in which he was born, and the agriculturist who gains his entire knowledge of the outside world from the columns of the weekly journal published in the neighboring village, are perennial sources of jest and merriment. The man who deliberately refuses to notice the scientific experiments made from time to time which may possibly revolutionize the learning upon any given question at any moment, and still claims to be learned in that branch of science, is accorded a very inattentive hearing. To keep abreast of the times one cannot evolve his knowledge from his inner consciousness, but must keep in touch with the thought of the age. The electrical engineer who graduated from the best technical school in the world ten years ago, but who knows nothing except what he learned there, is poorly equipped to take charge of a modern plant. The physician who knows nothing beyond the teaching of his own school is rapidly being outclassed by the open-minded, progressive man who has the brains to recognize, and the courage to adopt, a life-saving prescription, although it did not originate in the brain of the dean of his medical college. No one is quicker to recognize these facts and to treat them as such than is the lawyer, and yet many members of the bar are as narrow in their outlook, when it comes to the choice of the tools which they are to use, as is the farmer who relies on his village paper for his news.

There seems to be fashion among the members of the legal profession, especially in the older and more conservative states, to try to convince themselves that all they need to become successful practitioners is the reports of the courts of

their own state, and to act upon this conviction. No policy could be more shortsighted, or have such a disastrous effect upon the bar of which they are members, or the courts before which they practice. To be a jurist, one must keep in touch with the best legal thought of the age. A pettifogger or a case chaser does not need to know any law. All he requires is a means of finding a case in point, whether rightly or wrongly decided makes no difference, and he has accomplished all he can for his client in any case when his precedent is found. But the man whose advice is worth while, who can command the confidence of his clients, and safely guide them through the complications of modern business life, must know not only what his own court has decided upon the question, but also whether or not such decision is sound as shown by the trend of contemporary legal thought. If the decision is not sound, he may advise reliance upon it only to find it overruled, and the reliance ill-advised, and the client lost. No court in this country has a monopoly of legal learning. Some of the brightest minds on the bench are sitting in neighboring states, and no one can do justice to himself or his client unless he knows what they are thinking and deciding. Any court which, with the members of its bar, is contented to rely alone on its own decisions for its precedents, the formation of its policies, and the evolution of its jurisprudence, is bound to become narrow, and to find itself losing its standing, and relegated to a position of obscurity where its decisions no longer command respect; and any member of the bar who attempts to rely upon such decisions alone for his weapons will find himself no match for his adversary, who takes a broader view and avails himself of the aid afforded by the learning of other courts. Furthermore, when opposing counsel refuse to give their client the best service at their command, and simply quarrel over an application to their case of a particular precedent of the local court, they are not worthy to be intrusted with the interests of their clients, and should be ashamed to hold themselves out as competent practitioners, or to take compensation for their services.

The questions coming before the courts are constantly changing, and no court can decide the new questions as rapidly as they arise. Over and over again questions suddenly present themselves in the midst of a trial which have never arisen in that state before, and unless some aid is at hand from elsewhere, the lawyer is completely helpless. Not only that, but our best courts are constantly rendering decisions which will not stand the test of legal precedents and common sense, and to avoid their becoming rules of property which cannot be overturned, no matter how absurd they are, it is necessary to have access to the thought of other courts on the same subject to bring the court back into the right path. The legal profession has ever kept in the forefront of advancing thought, and any tendency to surrender its proud position is to be deplored. One cannot honestly believe that it is not necessary for him to keep in touch with the best modern legal thought, and if he cannot honestly believe it, his acting upon such an apparent belief is compromising with his conscience in a manner which will surely cause him trouble.

Supreme Court Memorial of Justice Peckham.

The principal address of eulogy at the meeting of the members of the bar of the Supreme Court of the United States, held at Washington in memory of the late Justice Rufus W. Peckham, was delivered by Ex-Judge Alton B. Parker, of New York. Judge Parker said in part: "We are here to-day to commemorate a public career embodying the highest development of our democratic institutions, as manifested in our judicial system, and, at the same time, to recall a man sturdy, independent, kind, modest, well-poised, and many-sided.

"The devotion of Rufus Wheeler Peckham to the law was akin to his heritage of life itself. He came from an ancestry distinctly legal. There have been families whose members have illustrated, in one generation after another, the best human

qualities, but our history does not reveal another in which the public career of a son has touched that of a father at more, if so many, points.

"Into this court, the very crown of our judicial system, Judge Peckham entered with his ripe experience buttressed by a strong mental equipment. As a result he did not have to grope his way, but assumed at once his natural place among equals. As he had adopted for his own the apostolic command, 'Whatsoever thy hand finds to do, do it with all thy might,' his phenomenal industry was newly devoted to the consideration of the most vital questions, just as it had been given to those which had absorbed him during the whole of his career as a lawyer and a judge.

"It was his privilege, although he could not foresee it at the beginning, to be a member of the court during a period when more questions of far-reaching national importance were to be passed upon than during any like period in the history of the court, as it was also to be his pleasure to be associated with justices whose usefulness to the court and the country has not been surpassed in the history of the court."

CONTRIBUTED ARTICLE

The editor has received the following from Chas. J. Noyes, of Los Angeles, California:

"I have just read with much interest your editorial in the November Case and Comment upon the 'Direct Nomination of Judges.' I agree with you in your strictures in that direction, but permit me to say that, in my judgment, the whole system of electing judges is wrong. Possibly the system of selection by popular nomination has proved a failure; it naturally would. Amid the excitement and turmoil of a political campaign, involving, as it generally does, the choice of candidates for several and widely differing stations and departments of civil service, it would be a difficult work to make wise selections for so important and peculiar a position. It requires rare and unusual qualities to fit a person for the bench. The common public are hardly capable of selecting the best men. They possess in a very limited degree the personal knowledge of the requirements, and must necessarily depend upon the advice and direction of those better qualified to judge of a candidate's fitness. Hence the results, which are manifest.

"But more than forty years of practical experience and close observation lead me to regard the method of nomination by convention but little, if any, better or safer. I believe the judiciary elected by the people under any system will, in the long run, prove less efficient and less satisfactory than that appointed by a governor, under the stern responsibilities of his office, and ratified by some capable authority, acting deliberately and outside of the pressure of political stress and excitement. It seems to me the high character of our Federal judiciary, in the light of all these years, and in view of the grave tests to which it has been subjected, is ample proof of the far-sighted wisdom of the founders of the Republic in their choice of system of selecting these judges. Massachusetts wisely followed the example set by the mother country, and her judiciary will, I think, challenge successful comparison with any bench of judges in the civilized world. And even where the system of election prevails, I believe it will be found, on investigation, that the character of the judiciary is elevated in proportion to length of term of service, giving independence and freedom from political and personal influences. It is saying nothing by way of invidious comparison to assert that judges, like their fellow mortals in other important stations, are often unconsciously influenced by personal environment and the knowledge of the conditions and circumstances which led to their eleva-

tion to the bench. The farther these considerations can be removed the better, even for the judges themselves, as well as the interests and parties with whom they are called upon officially to deal.

"To my mind it is a pernicious system, fraught with grave possible evils, that permits the sacred robes of the judiciary to drabble through the slimy mire of politics; that permits those exalted stations to become the subjects of barter across the miserable bargain counters of political and partisan conventions."

AMONG THE NEW DECISIONS

Judicial power over right of eminent domain. The circumstances under which the courts will interfere with the exercise of the power of eminent domain by the legislature or those to whom the legislature has delegated its power, and the questions which may properly be considered by the courts in eminent domain proceedings, are clearly set out, with an exhaustive review of the authorities, in an extensive note in 22 L.R.A.(N.S.) 1, accompanying the recent North Dakota case of Grafton v. St. Paul, M. & M. R. Co., in which it is held that the determination by a municipality as to the necessity of opening a street for which it is sought to condemn property is conclusive, and not reviewable by the courts, but that the courts may pass upon the question whether it is necessary to take for such purpose the particular property sought to be condemned.

Stock transaction on margin. Since it is well settled that a sale of stocks for future delivery is valid where an actual transaction is contemplated, and not a mere settlement by payment of the difference between the market and the contract price at the time appointed for delivery, although the seller may not have the stock at the time of the sale, and the test by which the invalidity of such a transaction is to be determined is the presence of an unlawful intent, the question necessarily arises, What inference, if any, as to the existence of such intent, may be drawn from the circumstance that the transaction is upon margin? The authorities, as shown by a note in 22 L.R.A. (N.S.) 174, are in accord in holding that the fact that margins only are advanced does not, of itself, stamp a transaction as a mere gambling contract, but that such fact may be taken into consideration in determining its real character, so that, where margins alone seem to be within the contemplation of the parties, —as where a purchaser's financial ability is not commensurate with the amount of his purchases, or where the dealings of the parties are purely in relation to the margins, and not the completion of the sale or purchase,—it may be regarded as a gambling transaction. In a late Maryland case,—Richter v. Poe,—to which this note is appended, it is held that the law presumes the validity of a contract by which stocks are to be purchased and carried by a broker on margin, and that the customer has the burden of showing that it was a mere cover for a gambling transaction.

Obstruction of traveler's view of track at railroad crossing. The duty of railroad employees on approaching a crossing, as affected by obstruction of the traveler's view of the track, is the subject of a note in 22 L.R.A.(N.S.) 232, accompanying the New Jersey case of Danskin v. Pennsylvania R. Co., which holds that the fact that, at the time a railroad was located across a public highway, there existed brush or woods at a crossing, which might obstruct a traveler's view of an approaching train, is not of itself enough to charge a railroad company with the duty of adopting extraordi-

nary safeguards at a crossing. Since a railroad company is bound to use only due care in the operation of its trains, the question raised by such a case really is, What is due care where the view of the tracks is obstructed? and it is usually left to the jury to say whether, in view of the obstructions, the company has exercised ordinary care in respect to the peculiarly dangerous condition of the crossings; whether ordinarily prudent men would have taken the extra precautions, and whether such precautions were taken in the particular case.

Contract to aid in collection of estate. The question whether the act of a creditor in assisting the estate of his debtor to recover assets constitutes champerty and maintenance has apparently been passed upon for the first time in the North Carolina case of Smith v. Hartsell, 63 S. E. 172, 22 L.R.A.(N.S.) 203, holding that an agreement by one having a claim against a decedent's estate to do everything proper and legitimate to aid the heirs in recovering the estate, in consideration that they pay his claim, is not void as champerty or maintenance.

Administration on estates of absentees. The court of appeals of Maryland has also recently handed down a decision of first impression as to the retroactive effect of a statute permitting administration upon estates of absentees. It holds in the case of Savings Bank of Baltimore v. Weeks, 72 Atl. 475, 22 L.R.A.(N.S.) 221, that a statute providing for administration upon the estates of persons who have been absent from their usual places of residence, and unheard of for a period of seven years, may operate upon the estates of persons whose absence began before its passage.

Recall of pardon. The question whether an absolute pardon may be recalled or a conditional pardon revoked where there is no breach of condition is considered in a note in 22 L.R.A. (N.S.) 238, accompanying the North Carolina case of Ex parte Williams, denying the right of the governor to recall a pardon which he has forwarded to the sheriff for delivery to a prisoner, after the prisoner has complied with the conditions precedent on which it was granted. This decision is in harmony with the other authorities reviewed in the note. But, if the pardon has been secured by fraud or misinformation, it is void and may be canceled; and it is also held that a pardon may be revoked before its delivery.

Liability of stockholder or officer for torts of corporation. By the decided preponderance of authority, as shown by a note in 22 L.R.A.(N.S.) 257, the statutory liability of the directors, officers, or shareholders of a corporation for its "debts" in certain events, being of a penal nature, and requiring a strict construction, excludes a liability *ex delicto,* although, as shown by an earlier note in 28 L.R.A. 141, the managing officers of a corporation may be personally liable, in addition to the liability of a corporation itself, for wrongful corporate acts done under their direction. In harmony with the great weight of authority, it is held in the recent Mississippi case of B. F. Avery & Sons v. McClure, which accompanies the note in 22 L.R.A.(N.S.) 256, that the liability of a corporation for the infringement of a patent is not a debt contracted or debt existing within the meaning of statutes making stockholders and directors liable for such debts under certain conditions, and that the reduction to judgment of the claim for infringement does not make it a debt within the meaning of such statutes.

Right of personal representative of lessee to possession under lease to begin in futuro. The few cases which have passed upon the right of a personal representative to possession of a leasehold estate where the term was to begin *in futuro,* or the right of a personal representative to take advantage of a renewal clause in a lease, where the lessee, at the time of his death, was in possession, are reviewed in a note in 22 L.R.A.(N.S.)

301, accompanying the Illinois case of Grace v. Seibert, which holds that the taking possession by an executor *de son tort* of the premises for which decedent had secured a lease to begin *in futuro*, paying rent from month to month, does not give him any rights under the lease, but makes him a tenant only from month to month, since he would have no authority to take possession under the lease.

Inciting or abetting suicide. At common law, a suicide could escape punishment only on the theory that, as an abettor, he could not be tried until the principal was tried and convicted; and even this escape was largely cut off by regarding him as a principal whenever he was present at the time of the fatal act, or whenever it was his act through an innocent agent, and as an abettor only when there was another guilty principal. As shown by a review of the authorities in a note in 66 L.R.A. 304, these rules seem to have been applied in the United States under the various penal statutes, even though, under them, no punishment was imposed for suicide, inciting it being nevertheless regarded as an unlawful act. Although an opposite ground was taken in Texas, its position has been practically neutralized by the fact that the specific act of inciting or abetting suicide is made punishable by statutory enactment. Many of the other states have also provided specifically for the punishment of this act. In a recent Texas case,—Sanders v. State, 54 Tex. Crim. Rep. 101, 112 S. W. 68, 22 L.R.A.(N.S.) 243,—it is held that one is not guilty of murder in inducing another to take poison which results in the latter's death, if the latter knew the character of the poison, and took it voluntarily for the purpose of committing suicide, under a statute providing that, if any person with intent to injure, cause another person to inhale or swallow any substance injurious to health, he shall be deemed guilty of murder if death results. The other decisions on this subject which have been handed down since the note in 66 L.R.A. are collated in a supplementary note to this case.

Crime of receiving deposit after bank is insolvent. Another addition to the number of futile attempts to hold unconstitutional statutes making it a crime for a banker to receive deposits after insolvency is made by the recent Nevada case of Re Pittman, 99 Pac. 700, 22 L.R.A. (N.S.) 266, in which it is held that such a statute is not unconstitutional as a special law for the punishment of crime nor as class legislation, since the banking business properly forms a class by itself for legislative regulation. As shown by a review of the authorities in a note to this case, the only case in which such a statute has been successfully attacked is Carr v. State, 106 Ala. 35, 34 L.R.A. 634, 54 Am. St. Rep. 17, 17 So. 350. But this case can hardly be regarded as exceptional, since the statute contained a provision that the payment back to the depositor of the amount of the deposit before conviction, together with the costs, should be a good and lawful defense to any prosecution, and the court held that the statute apparently was intended simply as a means of extorting from a debtor the money which he owed; and it was held void as in violation of the constitutional provision against imprisonment for debt.

Pollution of stream by mining operations. As shown by a review of the authorities in 24 L.R.A. 64, the importance of developing the mining interests of the country has not been held to justify the pollution of streams by mining operations, the general practice being to apply against miners the common-law rule which entitles a riparian proprietor to have the water flow to him without material diminution in quality. And this rule has been generally applied in the later cases, which are reviewed in a supplemental note in 22 L.R.A.(N.S.) 276, accompanying the Ohio case of Straight v. Hover, holding that an upper owner of lands upon a stream, who operates them for underlying petroleum by pumping it and the salt water with which it is commingled into tanks, and, after the petroleum rises,

withdrawing the salt water from beneath and discharging it by gravity into the stream, is liable in compensatory damages for such substantial injuries as may be sustained by a lower proprietor in consequence of the water in the stream being thereby rendered unfit for the use of live stock, and destructive of the grass with which it comes in contact, although such operation is conducted with care, and is the only known practicable method of developing the mineral resources of the upper proprietor's lands.

Effect of appeal from order appointing receiver on exclusiveness of jurisdiction of court appointing.

In general, where a court having jurisdiction over the subject-matter has assumed jurisdiction of a proceeding involving the possession of property, so that the property is or may be placed *in custodia legis*, its jurisdiction becomes exclusive, although another court might have been resorted to in the first instance. The question of the applicability of this doctrine to a case where an order appointing a receiver of property involved in a suit has been suspended by an appeal and the giving of a supersedeas bond is considered in a note in 22 L.R.A.(N.S.) 316, by which it appears that the suspension of activity of a receiver by an appeal from the order appointing him does not have the same effect as a discharge, by which the property is left in such a situation that it is no longer *in custodia legis*, since the appellate court still has jurisdiction over the *res* the same as the trial court had. Thus, in a recent decision of the United States circuit court of appeals—State v. Palmer—which accompanies the note, it is held that an appeal and the giving of a supersedeas bond in a proceeding in the state court appointing a receiver, which has the effect of suspending the order, but not of discharging the receiver, does not take the property out of the jurisdiction of the state court, so as to enable a Federal court to appoint a receiver over it.

Liability of railroad company for negligence of its employee while running on road of other company, subject to orders of latter's train despatcher.

The conflict among the decisions as to the liability of a railroad for negligence of one of its employees while running over the road of another company under a license, subject to the orders of the latter's train despatcher, arises from the different views taken by the courts of the effect of the control which the train despatcher of the licensor company exercised over the movements and operations of the trains, and consequently over the servants of the licensee company. It has been held in some cases that the control of the despatcher is sufficient to take all liability away from the licensee company, even for negligent acts in no way attributable to the conduct of the licensor's train despatcher. These decisions, however, are against the decided weight of authority, as shown by a note in 22 L.R.A.(N.S.) 323, and some cases which have been frequently cited as authority for this theory are clearly distinguishable. In a few cases, the court apparently attempts to make a distinction between the acts of the servant which are the immediate result of the orders or direction of the train despatcher or some similar officer of the licensor road, and those acts which are entirely distinct from the conduct of the despatcher, holding the licensee company not liable in the former case, but liable in the latter. In harmony with the weight of authority, it is held in a recent decision of the United States circuit court of appeals, ninth circuit,—Hamble v. Atchison, T. & S. F. R. Co.,—which accompanies the note, that a railway company is not relieved from liability to a stranger by the negligence of its conductor by the fact that, at the time, its train was running under a license over the track of another company, the directions of whose train despatcher it was bound to obey. So, in a decision of the same court in the eighth circuit,—Chicago, R. I. & P. R. Co. v. Stepp, 90 C. C. A. 431, 164 Fed. 785, 22 L.R.A.(N.S.) 350, —it is also held that a railroad company

is not relieved from liability for injury to a passenger at a station, due to its running its train at excessive speed without signals, by the fact that it was operating under the direction of a train despatcher of another company, whose track it was using.

Injury from blasting. The right to punitive damages as affected by the wrongdoer's adoption of an unnecessarily dangerous method of doing work because it was cheaper to pay damages than to pursue a safer method seems to have been passed upon for the first time in the case of Funk v. Kerbaugh, 222 Pa. 18, 70 Atl. 953, 22 L.R.A. (N.S.) 296, holding that a corporation may be liable for punitive damages where, to save expenses, its superintendent directs its servants to use unnecessarily large charges of explosives in blasting, to the injury of neighboring property, in wanton disregard of the rights of the owner, and against his protest.

Breach of master's statutory duty. The effect upon a master's liability for breach of a statutory duty of the fact that the employee was resting at the time of the injury is considered in a note in 22 L.R.A.(N.S.) 309, which shows that the mere fact that a servant is resting, or is not actually engaged at his work at the time of the injury, does not, as matter of law, relieve the master from the obligations imposed upon him by statutes relating to the employment of minors, the guarding of machinery, etc. In harmony with this rule, it is held in the late Minnesota case of Jacobson v. Merrill & Ring Mill Co., which accompanies the note, that a boy under fifteen years of age, who is employed to sort lath in a sawmill, does not depart from the scope of his employment, so as to bar a recovery for injuries caused by the negligence of the master, in failing to guard a lath machine, as required by statute, by sitting down to rest for a short time on the machine, that being the only available place where he could conveniently sit down and at the same time watch his work.

Grant of tide lands by state. There seems to be little doubt, as shown by a review of the authorities in 22 L.R.A.(N.S.) 337, of the correctness of the general proposition that the title to tide lands is in the state and may pass therefrom by grant, though, in a few earlier cases, the courts attempted to impose a trust in favor of the public upon the state's title to tide lands, thereby, to some extent, at least, restricting the right of the state to grant the same. And in the Florida case which accompanies the note,—State ex rel. Ellis v. Gerbing,—it is held that the title to lands under navigable waters in the state, including the shore or space between high and low water marks, is held by the state in trust for the use of the inhabitants, and the state may, in the interest of the public welfare, make limited disposition of portions of the lands under the waters, or may permit the use thereof when the rights of the whole people of the state, as to navigation and other uses of the waters, are not materially impaired.

Construction of building contract. The recent Washington case of Camp v. Neufelder, 49 Wash. 426, 95 Pac. 640, 22 L.R.A.(N.S.) 376, seems to be one of first impression on the question of the construction of the phrase "or equal" as used in building contracts in prescribing the kind of material to be used. In this case it was held that, under a contract calling for material of a certain make "or equal," the contractor is not bound to furnish the material specified if procurable, and substitute other material only when that specified is not obtainable, but may use material equal to that specified in the first instance if it can be procured: and that, where the contractor, at the instigation of the architect, uses the material specified in the contract, he may hold the owner of the building liable for the losses thereby sustained, where he might have procured other material "equal" to that specified at less cost than the material used.

Preventing diversion of flood water. As shown by the note in 22 L.R.A.(N.S.) 391, on the right of a riparian owner to prevent the diversion of flood water, there are but few cases other than the California case of Miller & Lux v. Madera Canal & I. Co., which accompanies the note, and the companion case of Turner v. James Canal Co. (Cal.) 99 Pac. 520, 22 L.R.A.(N.S.) 401, wherein it was sought by a lower riparian owner, as a mere incident of riparian ownership, to enjoin the diversion of flood water as such, and none where, as in these cases, it appeared that the flood water was a direct benefit to such riparian owner. In the former of these cases, in which the party seeking to divert the flood waters was a nonriparian owner, it is held that a riparian owner is entitled to enjoin the diversion of flood waters of a river which annually flow over his land, bearing fertilizing material, and irrigating it sufficiently to make it productive, whereas, should the flow cease, the land would become arid and greatly depreciated in value. In the second case, however, it is held that a riparian proprietor cannot enjoin a reasonable use of the water of a river by an upper proprietor for purposes of irrigation, although the effect of such use will be to prevent the water from spreading over his property in times of flood, carrying fertilizing material and moistening the land, making it more productive, as it has been wont to do.

Changing rights of stockholders as to voting the stock. The rule that the reserved power to amend the charter of an insurance company does not include power either directly or indirectly, by the action of the directors under the authority of a majority of the stockholders, to transfer the power of electing all or a majority of the directors from the stockholders to the policy holders, since that would be an unconstitutional interference with property rights, is held in Lord v. Equitable Life Assur. Soc. 194 N. Y. 212, 87 N. E. 443, 22 L.R.A.(N.S.) 420, not to apply so as to prevent the amendment of a charter which provided for permitting holders of policies of a certain face value to vote for directors, so as to change the manner of the exercise of the right, and permit the policy holders or those carrying a prescribed amount of insurance to vote for all or a less number of directors. The other authorities on the question of the right, under reserved power, to amend or repeal charters of corporations so as to change the rights of stockholders as to voting the stock are reviewed in a note to this case.

Subrogation of holder of check of insolvent to collateral held by drawee for indebtedness of drawer. Two recent South Carolina cases have passed upon the right of the holder of a check or draft of an insolvent to be subrogated to collateral held by the drawee for an indebtedness of the drawer, which was released by the extinguishment of such debt by a deposit or other credit in the latter's favor. In the first of these cases,—Livingstain v. Columbian Banking & T. Co. 77 S. C. 305, 57 S. E. 182, 22 L.R.A. (N.S.) 442,—it is held that a depositor receiving in payment of his check on an insolvent bank its draft upon a deposit in another bank which holds its note with collateral security under a contract forbidding overdraft, and giving the holder the right to apply the maker's deposit upon the note upon the latter's insolvency, is not entitled, as against other depositors of the insolvent bank, to subrogation to the collateral in case the deposit is applied to the note before the draft is presented, and payment of the draft is therefore refused. In the second case,—Livingstain v. Columbian Banking & T. Co. 81 S. C. 244, 62 S. E. 249, 22 L.R.A. (N.S.) 445,—it is held that a depositor who, suspecting the insolvency of the bank, withdraws his deposit at a time when it is doing business in the usual course, and, becoming satisfied that the bank is solvent, uses the money withdrawn to purchase New York exchange, is entitled, upon the bank proving insolvent, to subrogation to the rights of the

correspondent bank to collateral held by it for a note in satisfaction of which it applies the funds against which the draft is drawn. These two cases and a few authorities cited in the opinion to the first case seem to be the only ones in which this question has been passed upon. The reason for this dearth of authorities is probably explainable by the fact that, in the majority of states, a receiver of the drawer, appointed after the issuance of the draft or check, but before its presentation to the drawee, is entitled, as against the holder, to the funds against which the same is drawn; while the question as arising in Livingstain v. Columbian Banking & T. Co. necessarily demands the existence of the doctrine that, at least, as between the drawer or one holding under him and the holder, the issuance of a check or draft operates as an assignment *pro tanto* of the funds against which it is drawn. This doctrine was clearly recognized in the Livingstain case, and from it necessarily followed the deduction that, as between the banks and the holder of the check, the latter would have been entitled, on the equitable principle of subrogation, to be substituted for the drawee to any collateral held by it. The court, therefore, in refusing to permit the holder of a check to be subrogated to the collateral as against the other creditors of the insolvent institution, simply permitted the stronger of two equitable principles to overcome the weaker. However, the court recognized another principle to the effect that, if the checks had been issued for cash paid into the bank, the result would have been different, and the equitable principle followed in turn would have been overcome. And it was on this ground that one of the parties in the second action claimed to be entitled to subrogation, with the result that this time he was successful. It would seem, therefore, that at least, from a logical view point, the court was justified in its decision in both cases, although on first thought it is difficult to see why a person who drew out his money, and, without leaving the bank, almost immediately paid it back, should gain advantages over another person who did not take that trouble.

Accepting plea of guilty in capital case.

The question of the duty of the court before accepting a plea of guilty in a capital case is considered in a note in 22 L.R.A. (N.S.) 463, accompanying the Oklahoma case of State v. Johnson, in which, in harmony with the other authorities, it is held that accepting a plea of guilty of murder in the first degree, and sentencing the accused to death without cautioning him as to the gravity of his admission, or taking evidence as to the circumstances of the crime, is not according to the forms of law.

Majority essential to adoption of constitutional amendment.

The question upon what basis the majority essential to the adoption of a constitutional amendment or other special proposition submitted at a general election is to be computed is the subject of a note in 22 L.R.A. (N.S.) 478, and, as shown by the cases therein cited, there is a considerable conflict among the decisions, due largely to the varying phraseology of the constitutional or statutory provisions under consideration. The note is accompanied by the Wyoming case of State ex rel. Blair v. Brooks, holding that a majority of the electors voting upon the question of the adoption of an amendment to the Constitution is not alone sufficient to ratify it, where the Constitution provides that the amendment shall become a part of the Constitution if a majority of the electors shall ratify it.

Mortgagee's right to enforce purchaser's promise to pay mortgage, where, promisee was not himself liable.

The authorities which hold that a grantee who assumes a mortgage is liable to the mortgagee for the mortgage debt may be divided into two general classes, which refer the liability to distinct and well-defined principles of equity. In some cases it is held that a contract to pay the mortgage operates as a collateral security obtained by the mortgagor, which inures to the benefit of the mortgagee upon the principle that, in equity,

the creditor is entitled to the benefit of all collateral obligations for the payment of the debt which one standing in the position of surety for the debt has received for his indemnity. In other cases it is held that one assuming payment of the debt is liable upon the broad principle that a promise of one person to another, for the benefit of a third, may be enforced by the latter. While the first of these equitable doctrines is apparently very well established, the second is not accepted in some jurisdictions. In those states which refer the liability of the grantee to the doctrine that the promise is a collateral security which, by subrogation, inures to the benefit of the mortgagee, the promise is held to render the grantee the principal and the grantor the surety for the debt, the promise being to indemnify the latter in case he has to pay the debt. It necessarily follows that, where this theory prevails, if the grantor is not himself liable, no liability can attach to the grantee, and it is so held in very many cases, as shown by a review of the authorities in a note in 22 L.R.A.(N.S.) 492. This note is accompanied by the Minnesota case of Kramer v. Gardner, in which it is held that, while the grantee in a deed of conveyance, by assuming the payment of an outstanding mortgage on the land for which his grantor is personally liable, legally obligates himself to pay the debt, his contract being enforceable by the mortgagee, this rule cannot be extended to a case where the grantor or promisee was, in respect to the particular debt, under no legal or moral obligation to the third person for whose benefit the promise was made.

Liability of insurance agent who fails to follow instructions. As shown by a review of the authorities in a note in 22 L.R.A. (N.S.) 509, there is no doubt that an insurance agent is liable to the company for loss caused by his negligent or wilful failure to obey instructions; and, in the North Dakota case of Queen City F. Ins. Co. v. First Nat. Bank, which accompanies the note, it is held that an agent of a fire insurance company, who fails to comply promptly with his company's clear and specific written instructions to cancel a certain policy at the earliest possible moment, is liable to the company for loss sustained because of such failure.

Disinterment of corpse for evidential purpose. On the question of the right of a court to order disinterment of a corpse for evidential purposes, there is very little authority, as shown by a note in 22 L.R.A.(N.S.) 513; and, from the few cases which have passed on the question, it would seem that the matter is one within the discretion of the court. In the Texas case of Gray v. State, which accompanies the note, it is held that a court before which is pending an indictment for murder has authority, at the instance of the accused, to order the disinterment of the body of the deceased, and the performance thereon of an autopsy, even against the will of the latter's relatives, where it is necessary to determine the facts upon which the guilt or innocence of the accused rests, and for the due administration of justice.

Refusal of message by telegraph company. The right of a telegraph company to refuse a message because of its form seems to have been passed upon for the first time in the case of Cordell v. Western U. Teleg. Co. 149 N. C. 402, 63 S. E. 71, 22 L.R.A.(N.S.) 540, holding that a telegraph company cannot escape liability for refusal to accept a telegram because the address was not in the proper place, if, from the circumstances, a person of ordinary intelligence would have known where it was to be sent, and that it was important, and also that it is not justified in refusing to accept a telegram because it is not signed, unless it indicates an unlawful purpose, or is calculated to arouse a well-grounded suspicion that there was some improper reason for withholding the signature. The question of the right to refuse a message because of its character is considered in a note in 17 L.R.A.(N.S.) 836.

Evidence of transactions with one since deceased. The recent case of Jackman v. Inman, 137 Wis. 30, 118 N. W. 189, 22 L.R.A. (N.S.) 559, is an impressive as well as novel example of the strictness with which the courts apply statutes which exclude evidence by an adverse party of personal transactions with a person since deceased, inasmuch as such a statute is in this case held applicable to evidence to identify a subject-matter referred to in writing. The court held that the statute applies to evidence by the maker of a promissory note in an action to enforce payment in favor of the payee's estate, that an indorsement on another note produced by defendant, to the effect that it was given in place of a former note alleged to have been lost, referred to the note in suit, that the indorsement of payment in full on the substituted note was made by the deceased, and that a receipt for interest on a note referred to the note in suit. Such a decision would seem to go far towards justifying Professor Wigmore's arraignment of the whole policy of such statutes. (Wigmore on Evidence, § 578.)

Boycott by labor union. In view of the decided conflict that exists among the courts of different jurisdictions upon the question of the lawfulness of a boycott, as shown by a note in 16 L.R.A.(N.S.) 85, the recent case of Lohse Patent Door Co. v. Fuelle, 215 Mo. 421, 114 S. W. 997, 22 L.R.A.(N.S.) 607, is especially interesting. The court holds that a labor union is guilty of an illegal boycott by notifying, in pursuance of a conspiracy to injure the business of one against whom a strike has been declared, customers of such person that its members will not handle materials furnished by him, and that any attempt on their part to force them to do so will cause a strike to be called against them; and the fact that an individual might refuse to labor for one who handled the material of the concern is held not to render legal a combination or conspiracy among all the members of a labor organization to do so for the purpose of injuring the concern.

Sale of liquor near school or church. The question what is a school or church within the meaning of a statute forbidding traffic in intoxicating liquors within a given distance of such a building is considered in a note in 22 L.R.A.(N.S.) 194, accompanying the New York case of Re Townsend, which holds that a building maintained by a hospital as a training school for nurses, which is registered with the state board of regents, and admits as pupils only women at least twenty-three years of age, is not within the meaning of a statute forbidding traffic in intoxicating liquors within 200 feet of a building occupied exclusively as a schoolhouse. As appears by an examination of the authorities in the note, this seems to be the only case which passes directly on the question as to what is included within the terms "school" or "schoolhouse," as used in a statute as to the sale of liquor.

What constitutes obscenity. Since chaste words may be made the medium of expressing obscene thoughts, and, on the other hand, gross terms of the vilest sort may be used, with the result that they cause only disgust and contempt, the true test of obscenity, as stated in a note in 22 L.R.A. (N.S.) 225, is whether the particular language employed is calculated to corrupt morals or excite libidinous thoughts, and not whether the words themselves are impure. Thus, in the Massachusetts case of Com. v. Buckley, which accompanies the note, it is held that the question whether or not a book which describes seductive actions and highly wrought sexual passion is within a statute forbidding the sale of books containing obscene, indecent, or impure language, and manifestly tending to the corruption of the morals of youth, is for the jury, although the language used is not impure or indecent.

Deposit of corporation check to officer's account. A recent decision of the appellate division of the supreme court of the state of New York is attracting considerable attention in banking circles. It

was rendered in the case of the Havana Central Railroad Company v. Knickerbocker Trust Company, and holds that it is the duty of a bank accepting a check drawn by an officer of a corporation, as such, and deposited by him to his private account, to make inquiry as to the regularity of the proceeding; and that a bank accepting such checks, and paying out money on them to the personal benefit of the officer who drew and deposited them, is liable to the corporation if reasonable inquiry would have revealed the unlawfulness of the officer's action.

This decision imposes a responsibility upon banks and trust companies from which they had believed they were exempt. It has been held heretofore that a person is not entitled to accept without inquiry, in payment of an antecedent debt, a corporation check made payable to an officer, and signed solely by him; but this rule has not hitherto been applied to the deposit of the checks of a corporation to an officer's individual account. The effect of the decision under consideration will be to require banking institutions to exercise the same care in receiving such checks for deposit as they would be obliged to exercise if such checks were offered in payment of the officer's antecedent individual debt.

INTERNATIONAL AFFAIRS

Robert Bacon, of New York, formerly secretary of state, has been appointed to succeed Henry White as ambassador to France.

Richard C. Kerens, of St. Louis, Missouri, was recently accepted by Austria as the American ambassador to that country.

The protocol with the United States, referring the Alsop claim against Chile to King Edward for mediation, was signed by the government of Chile on December 2d.

It has been planned to hold an all-American exposition in Berlin, during the months of June, July, and August, 1910. The object of the exposition is to present, in the commercial heart of Europe, an epitome of our industrial achievements, our natural resources, and our progress along artistic and intellectual lines. Designed primarily for the purpose of extending our trade relations with Germany, such an object lesson, it is believed, will have a far-reaching effect upon our exports generally, and serve to cement the ties of friendship which unite the two great countries. Prince Henry of Prussia, brother of the Emperor, is president of the German reception committee, while in this country, J. Pierpont Morgan is president of the committees which are directing the work of selecting representative exhibits. Former governor David R. Francis, of Missouri, is first vice president, and John Wanamaker, the merchant prince, is second vice president.

David E. Thompson, American Ambassador to Mexico, has resigned that position to assume active charge of the affairs of the Pan-American Railroad, which he recently purchased. A sumptuous banquet in his honor was given at the National Palace in the city of Mexico by President Diaz.

The recent death of Leopold II., King of the Belgians, has removed a picturesque figure from the arena of European politics. Whatever may be said of him as a ruler and a man, he had one redeeming trait, at least. He steadfastly refused to sign death warrants, in fulfilment of a promise made years ago to his mother.

The recent death at his home in Rochester, New York, of Ex-Consul Oscar F. Williams, recalls vividly the period of the Spanish-American War. When that struggle began, Mr. Williams occupied the position of United States consul at Manila. Foreseeing the possibility of an

attack upon Manila by the fleet under Commodore Dewey, he acquired much valuable information, which he submitted to the Commodore at Hongkong. During the final naval engagement on the historic 1st of May, 1898, Mr. Williams had the privilege of standing on the bridge of the Olympia with Commodore Dewey while Admiral Montojo's fleet was being shattered or sunk by the unerring fire of the American gunners. This thrilling experience was eloquently described by him in addresses given on several public occasions.

NOTES FROM OTHER NATIONS

Prince Yamagata, who was formerly president of the Privy Council of Japan, but was succeeded by the late Prince Ito, again returns to power to fill the vacancy caused by Ito's assassination. It is said that these two men, though rivals for power, have, nevertheless, escaped personal bitterness or estrangement, and have given each other mutual support in all matters affecting the welfare of the nation.

JUDGES AND LAWYERS

Edward Payson Allen, a distinguished lawyer of Ypsilanti, Michigan, died on November 25th, at the age of seventy. Mr. Allen was prosecuting attorney four years, a member of the legislature for two terms, and member of Congress for several years.

Irvin Belford, for eighteen years clerk of the United States circuit court for the northern district of Ohio, died in Toledo on November 25th at the age of sixty-three.

Former State Senator W. E. Bibb, of Louisa, Virginia, was recently selected by Judge Samuel W. Williams, attorney general elect, to be his assistant, succeeding Colonel Robert Catlett.

Teackle Wallis Blakistone, a well-known lawyer of Baltimore, Maryland, died there on October 30th, at the age of sixty-two. Mr. Blakistone served as judge advocate general on the staff of General James R. Herbert during the railroad riots of 1877.

John McFarren Buchanan, one of the leading attorneys in western Pennsylvania, died in a Pittsburg hospital on November 22d, at the age of fifty-eight. Mr. Buchanan was for six years district attorney of Beaver county, and was a trustee of Washington and Jefferson College.

John G. Capers, of Washington, District of Columbia, for several years United States Commissioner of Internal Revenue, retired from that office in September last, and has opened his law offices in the new Evans building, in Washington, District of Columbia. Before his appointment as Commissioner of Internal Revenue, Mr. Capers was United States district attorney of his native state, South Carolina, and is now a member of the Republican National Committee for that state. Mr. Capers makes a specialty in his Washington practice of business before all of the Federal courts, including the court of claims, the committees of Congress, and of matters needing attention in the several Departments at the national capital.

Daniel Byrnes, of Chicago, who, for a number of years, has been local attorney for the Chicago & Northwestern Railroad company, recently resigned his position to take up private practice.

Benjamin S. Cable, a Chicago lawyer, was recently appointed Assistant Secretary of Commerce and Labor.

William Lionel Chambers, a lawyer of St. Louis, Missouri, formerly attorney for the Missouri Pacific Railroad, was recently appointed pardon attorney to succeed Frank Blake.

Martin L. Clardy, general attorney of the Missouri Pacific railway for Missouri and Illinois, has been appointed vice president and general solicitor, with headquarters in St. Louis. Mr. Clardy succeeds Alexander G. Cochran, who recently resigned after twenty-two years' service.

George E. Clarke, one of the leading members of the legal fraternity of Indiana, died at South Bend on October 31st, after an illness of five months. Mr. Clarke was born in New Orleans, Louisiana, on May 8, 1860, and received his college training at St. Vincent's College, Cornell University, the University of Michigan, and Notre Dame University. He was twice elected prosecuting attorney of his county.

Henry G. Colerick, a brilliant lawyer and orator, and widely known as a criminal lawyer, was found dead in the Baltes Hotel, Fort Wayne, Indiana, on November 17th. For fourteen years Mr. Colerick was city attorney of Fort Wayne.

James Freeman Curtis, assistant district attorney at Boston, Massachusetts, and formerly assistant attorney general of Massachusetts, was recently appointed assistant secretary of the treasury.

David A. De Armond, for nineteen years a member of Congress, was burned to death in a fire that destroyed his home at Butler, Missouri, on November 24th. Congressman De Armond was at one time a member of the state senate, and later was elected circuit judge. He was elected to the fifty-second Congress, and served continuously until his death.

Thomas W. Dickey was recently elected district attorney of Lawrence County, Pennsylvania.

De Witt Clinton Duncan, the well-known Cherokee lawyer, writer, educator, and statesman, died a short time since at his home in Vinita, Oklahoma, at the age of seventy-five. Mr. Duncan wrote many articles on Cherokee affairs, and also several poems under the Indian name of "Too-Qua-Stee."

Henry L. Fisher, the Nestor of the York County, Pennsylvania, bar, died at his home in York on November 15th, at the age of eighty-seven. He had been in active practice for nearly sixty years in York county and the counties adjoining.

Lawrence C. Fyfe, a brilliant attorney of St. Joseph, Michigan, died in a Chicago hospital on November 15th, at the age of fifty-nine. Mr. Fyfe served for some time as city attorney of St. Joseph, and several times was a member of the state legislature.

George Gilmore Gilbert, a brilliant lawyer of Shelbyville, Kentucky, died at Louisville on November 8th, at the age of sixty, after an illness of many months. At one time Mr. Gilbert was county attorney of Spencer county, and in 1888 was elected state senator. He was elected to Congress in 1898, and served four terms in the House.

Major E. W. Hawkins, the oldest lawyer in Kentucky, died at his home in Newport on November 12th, at the advanced age of ninety-five. In the early days of Newport, Major Hawkins served as mayor of the city, and for several years was city attorney. In 1840 he was a member of the Kentucky legislature, and was judge advocate of the northern district of Kentucky during the Civil War. He practised law in Kentucky for seventy-five years.

Major Thomas Hercules Hays, one of Kentucky's best known citizens, died on November 9th at his home in Louisville, after a brief illness. Major Hays was born at West Point, Kentucky, October 6, 1837. He graduated at St. Joseph's College, Bardstown, with the degree of bachelor of arts, and also took high honors in civil engineering. Later he took up the study of law under the direction of Governor John L. Helm and Hon. James W. Hays. Shortly after his admission to the bar, the Civil War broke out, and he enlisted in the Confederate army, soon becoming major. He fought at Shiloh, Corinth, Vicksburg, and Chickamauga, and in 1863 was made adjutant and inspector general for the army at large. Major Hays served several terms in the Kentucky legislature.

Judge John D. Horsley, formerly circuit judge, and at one time division counsel for the Chesapeake & Ohio railway, died at his home in Lynchburg, Virginia, on November 20th, at the age of sixty.

A law partnership was recently formed at St. Louis, Missouri, by Hon. Warwick Hough, former circuit and supreme judge, Warwick M. Hough, general counsel for the National Wholesale Liquor Dealers Association of America, and R. F. Walker, former attorney general of Missouri, local counsel for the Santa Fe Railway, and chairman of the commission for the revision of the Missouri statutes.

Nat B. Jones, a prominent attorney of San Antonio, Texas, was shot on November 13th, and died shortly after.

Joel H. Jacobson, formerly of Syracuse, has opened an office for the practice of law at 326 Powers Building, Rochester, New York.

On December 27th, Justice Peter B. McLennan, in behalf of the bar of Onondaga County, presented Justice W. E. Scripture, who retires from the supreme court bench with the closing year, with a silver loving cup.

Judge M. E. Mathews, at one time a prominent lawyer of Kansas, was killed in a court room at Somerville, Alabama, on December 2d, during the progress of a suit brought by him for a small sum of money.

Green B. Raum, former Commissioner of Pensions, Commissioner of Internal Revenue, and prominent attorney, died at his home in Chicago on December 18th, at the age of eighty years. General Raum served with distinction under Grant and Sherman throughout the Civil War.

Gabriel Zito, an attorney of Utica, New York, died at his home there on December 5th, at the age of thirty-one.

Mark C. Finley, one of the best known lawyers in Wayne county, died at his home in Palmyra, N. Y., on December 22d.

Oliver Cromwell, a lawyer of New York, died on December 21st at his temporary Washington residence, from the effects of a stroke of paralysis. Mr. Cromwell was born in New York October 6, 1846, and was the son of Charles Thorne Cromwell, a noted New York lawyer of half a century ago. The deceased was a member of many New York clubs and an enthuiastic yachtsman.

Giffard A. Nelson, a lawyer of New York city, died at his home in Brooklyn on December 5th, at the age of thirty-three.

Frank C. Durham, a prominent young attorney, died of double pneumonia at the Deaconess Hospital in Indianapolis, Indiana, on December 11th. Mr. Durham formerly practised his profession in Crawfordsville, Indiana, but for the last two years had resided in Chicago, where he was employed by several large corporations.

Isaac N. Kinney, a prominent lawyer of Bay City, Michigan, died on December 14th at the age of thirty-eight years, in New York city, where he had gone for medical treatment. Mr. Kinney was re-

cently elected circuit court commissioner. He was a Spanish War veteran, and stood high in masonic circles.

Simeon Bloom, a prominent attorney of Omaha, Nebraska, died there on December 6th, at the age of sixty-three.

Captain A. J. McCutchen, a prominent attorney of Evansville, Indiana, died on November 18th at Portland, Oregon, where he was visiting. Mr. McCutchen had served several terms as prosecuting attorney, and was for a number of years a member of the Indiana senate.

Edgar S. K. Merrell, of Lowville, New York, was recently elected supreme court justice in the fifth judicial district of New York.

Samuel D. Morris, senior member of the firm of Morris & Whitehouse, and for more than half a century one of the best known attorneys of Brooklyn, died of heart failure in the Laurel House, Lakewood, New Jersey, on October 31st, at the age of eighty-four. Mr. Morris was successively member of the state assembly, corporation attorney of Brooklyn, judge of the county court of Kings county, and district attorney of his county.

James McKenzie Moss, of Bowling Green, Kentucky, was recently elected circuit judge.

Judge James O'Brien, formerly judge of the supreme court of New Mexico, died at his home in Caledonia, Minnesota, on November 5th.

A memorial meeting of the bench and bar of Baltimore city in honor of John Prentiss Poe, dean of the law school of the University of Maryland, was held on October 22, 1909. The memorial minute prepared by the committee appointed by the supreme bench was read by Mr. Bernard Carter, chairman of the committee, and addresses were made by Attorney General Isaac Lobe Straus, Messrs. Edgar H. Gans, Joseph C. France, State's Attorney Albert S. J. Owens, and the reply on the part of the bench was made by Chief Judge Harlan. A letter addressed to Judge Harlan by Charles A. Boston, of the firm of Hornblower, Miller, & Potter, New York, eulogizing Mr. Poe, was also read at the meeting by Mr. Carter.

A meeting of the combined classes of the law department of the University of Maryland was also held at the university on the afternoon of October 22d, to take action with regard to erecting some appropriate memorial as a mark of respect to their late dean. The meeting was presided over by Mr. A. C. New, president of the senior class, and Mr. J. R. Murray, president of the intermediate class, was also on the platform. Mr. S. Cavin Bowman, '09, delivered a short address on the work and influence of Mr. Poe in its relation to the law school. It was resolved that the suggested memorial should take the form of an oil painting of Mr. Poe, and committees were formed to secure the services of a leading Baltimore artist, and to arrange for the presentation of the portrait by the undergraduates.

City Attorney H. Sterling Pomeroy, of Kewanee, Illinois, was recently elected first judge of the newly established city court at Kewanee.

Harrington Putnam, of Brooklyn, was recently appointed by Governor Hughes justice of the New York supreme court for the second judicial district, to fill the vacancy caused by the resignation of Justice William J. Gaynor.

Judge J. C. Russell, who served on the bench for twenty years, died at his home in Corpus Christi, Texas, on November 4th, at the age of eighty-two.

Roland A. Russell, of Bloomington, Illinois, for twelve years county judge of McLean county, was recently appointed superintendent of the state reformatory at Pontiac. Judge Russell has been professor of law in the Illinois Wesleyan University since 1894.

Major David Ward Sanders, one of the most eminent attorneys of Kentucky, died at Louisville on November 1st, at

the age of seventy-three. Mr. Sanders was a native of Richland Plantation, Mississippi, and read law in the office of Walter Brooks, afterward serving one term in the Mississippi legislature. When the Civil War broke out, he enlisted in the Confederate army, and participated in some of the most important battles between Cumberland Gap and the Mississippi river, among which were the battles of Shiloh, Murfreesboro, and Missionary Ridge.

Judge W. P. Sandidge, of Franklin, Kentucky, was recently re-elected judge of the Russellville circuit.

George T. Sewall, for forty years a member of the Penobscot County, Maine, bar, and at one time a member of the state legislature, died at Old Town on October 31st, at the age of sixty-five.

R. P. Sherwood, of West York, Pennsylvania, was recently elected district attorney of York county.

John F. Sinks, formerly a prominent lawyer of Dayton, Ohio, and at one time a member of the Ohio senate, died at San Diego, California, on November 25th, at the age of sixty-four.

Fletcher Smart, of Jefferson City, Missouri, was recently appointed presiding judge of Cass county, to succeed John Wurton.

John Sullivan, of Louisville, Kentucky, was recently appointed assistant county attorney under A. Scott Bullitt.

Daniel Trigg, for many years a distinguished lawyer at Abingdon, Virginia, died at his home there on November 18th, at the age of sixty-six.

Judge Robert E. Umbel was recently re-elected judge of the common pleas court of Fayette county, Pennsylvania.

Justice Edward B. Thomas, of Brooklyn, has been appointed associate justice of the appellate division of the New York supreme court.

City Solicitor Ernest H. Vaughan, of Worcester, Massachusetts, was recently appointed to fill the vacancy on the superior court bench caused by the death of Judge Robert R. Bishop.

Judge Oscar M. Welborn recently retired from the bench of the Gibson circuit court, in Indiana, after nearly thirty-seven years of continuous service. He will be succeeded by Herdis F. Clements.

Edward B. Whitney, of New York city, assistant attorney general of the United States under President Cleveland, was recently appointed by Governor Hughes as a justice of the New York supreme court, to succeed Justice Henry A. Gildersleeve.

George W. Wilson, a former member of Congress, and a prominent lawyer, died at London, Ohio, on November 25th, at the age of sixty-nine.

Colonel W. H. Wise, of the law firm of Wise, Randolph, & Randall, of Shreveport, Louisiana, a distinguished member of the Louisiana bar, died suddenly on November 28th in a Pullman car at Jacksonville, Florida, where he had gone to recuperate his failing health. Colonel Wise was born in 1843, served with distinction in the Confederate army during the Civil War, was prominent in the struggle which ended the so-called "carpet-bag" domination in Louisiana in 1876, was a member of the constitutional convention of 1898, and counsel for the Queen & Crescent and other railroad companies.

Miss Amy Wrenn, a young lawyer of Brooklyn, is said to be the first woman to be appointed a receiver. She has gained unusual prominence on account of her thorough knowledge of corporation law.

Granville S. Wright, for ten years city prosecutor of Indianapolis, Indiana, died at his home there on November 5th, after a long illness. Mr. Wright had an active part in framing the present city charter, and in 1902 was elected to the state legislature.

Judge C. W. Yungblut, of Dayton, Kentucky, was recently re-elected to the circuit court bench of Campbell county.

The Prosecutors' Association of New Jersey recently elected officers for the coming year. They are: President, William R. Wilson, of Elizabeth; vice president, Charles A. Rathburn, of Madison; secretary, Nelson Y. Dungan, of Somerville; treasurer, George J. Large, of Flemington.

Former County Judge Robert S. Clements recently opened a law office at Durango, Colorado.

City Attorney P. G. Ellis and L. E. Smith have formed a law partnership at Durango, Colorado. They will also operate the Credit Exchange, one of the largest collection agencies in Colorado.

Albert Falck, a prominent lawyer of New York city, was recently appointed census supervisor for that district.

Charles Batt, formerly of New Albany, was recently elected city judge of Terre Haute, Indiana.

Bernard Archibald, a young lawyer of Houlton, Maine, and Miss Emma Ruth Putnam, also of Houlton, were married in the Unitarian church there on November 10th. Mr. and Mrs. Archibald left for an extended wedding tour through the Atlantic and middle states.

Borough Solicitor Jesse R. Evans and Miss Mary Bliem, both of Pottstown, Pennsylvania, were married on November 8th at the residence of the bride's parents.

Granville Hogan, a young attorney of St. Louis, Missouri, and Miss Regina Henrietta Kiel, also of St. Louis, were married on Monday evening, November 15th. Following the ceremony, a wedding supper and reception were held at the home of the bride.

Joseph C. Hostetler was recently appointed assistant city solicitor of Cleveland, Ohio, to succeed Cyrus Locher, who will form a law partnership with Harold Remington.

Andrew S. Iddings, formerly chief deputy clerk of the circuit and common pleas courts of Montgomery county, Ohio, and at one time deputy clerk of the Ohio supreme court, recently opened a law office in Dayton.

Jefferson Leason, of Kittanning, Pennsylvania, recently elected district attorney, and Miss Margaret Buffington, daughter of Attorney Orr Buffington, also of Kittanning, were married on November 4th.

John K. Lord, an attorney of St. Louis, Missouri, and Miss Irma St. Vrain Cole, of Fargo, South Dakota, were recently married at Chester, Illinois.

County Solicitor H. Robert Mays, of Reading, Pennsylvania, and Miss M. Elsie Lease, of East Berlin, Pennsylvania, were married at Dillsburg on November 11th. After a wedding trip to New York state, New Jersey, and the Virginias, they will reside at Reading.

Attorney General Andrew Miller and W. P. Costello recently formed a law partnership at Bismarck, North Dakota.

G. W. Pancoast, of Nevada, has recently opened a law office in Bucyrus, Ohio.

V. Gilpin Robinson, of the Delaware county, Pennsylvania, bar, recently entertained one hundred lawyers of Delaware county at a reception held at his home in Clifton Heights.

Hugh M. Tate, until recently a member of the law firm of McCanless & Tate, of Morristown, Tennessee, has been admitted to the law firm of Lucky, Fowler, & Andrews, of Knoxville, which firm will hereafter be known as Lucky, Fowler, Andrews, & Tate. Judge W. T. Coleman has succeeded Mr. Tate as the associate of Mr. McCanless in Morristown.

Percy E. Towne, a well-known attorney of San Francisco, and Miss Adelaide Matthews, of Los Angeles, were recently united in marriage.

County Judge George W. Ward, of Little Falls, New York, and Miss Edna Breckwoldt, of Dolgeville, were married Wednesday afternoon, November 24th, at Little Falls. After a brief honeymoon in western New York, Judge and Mrs. Ward will reside in Dolgeville.

John T. Woodruff, of Springfield, Missouri, formerly assistant general solicitor of the Frisco railroad at St. Louis, and Lewis Luster, of West Plains, recently appointed reporter for the Springfield court of appeals, have formed a partnership for the practice of law at Springfield.

An Ohio attorney writes as a lawyer and a citizen of the state to protest against the reports that he says have been current in the press, and, unfortunately, in some legal publications, to the effect that Charles A. Thatcher has been disbarred by the supreme court for criticizing a judge of the common pleas. He says that the report of the case in 80 Ohio State will show the untruthfulness of any charges or imputations against the supreme court. It is not likely that intelligent lawyers have been prejudiced by any reports that may have been set afloat, but it may be proper to call their attention to the report of the case in Vol. 80 of the Ohio State reports.

Thomas Sheppard Strong, long a prominent lawyer of Manhattan, and a son of the late Judge Selah B. Strong, died on December 12th at his home in Setauket, Long Island. He was descended from a family of lawyers, was a graduate of Yale, and until a few years ago was a member of the law firm of Strong & Spear, of Manhattan.

Judge D. B. Searle died at his home in St. Cloud, Minnesota, on December 12. He had held the positions of United States district attorney and district judge of the 7th judicial district. He served during the Civil War with the 64th New York Infantry, and participated in the seven days' fight before Richmond, as well as other notable engagements. He was a prominent member of the Grand Army of the Republic, and at one time acted as department commander for the state of Minnesota.

Mrs. Alma Dodson, society leader and lawyer at Springfield, Missouri, being informed by her physician that she must submit to an operation that would probably prove fatal, determined that none of her social obligations should remain unpaid at her death. She invited all her friends to a farewell card party and reception to be given the day before the operation. Smiling and cheerful, Mrs. Dodson was an admirable hostess. Afterward she selected the clothing in which she wished to be attired after death, and then went to the hospital. Her death occurred on December 6th.

Hon. John Raines, state senator and Republican leader in the senate, died at his home in Canandaigua, New York, on December 16. Senator Raines enjoyed a long and eventful public career. He commenced the practice of law shortly before the Civil War. In 1861 he raised a company of which he was made captain, and which was known as Company G of the 85th Regiment of New York Volunteers. He served in the army of the Potomac and in the North Carolina campaign until July, 1863. Upon leaving the Army, he resumed the practice of the law, but in more recent years he devoted his time to the insurance business and the discharge of his public duties. Mr. Raines served in the assembly and represented his district for one term in Congress. For the last fifteen years he has been continuously a member of the state senate, surpassing all records for length of service.

Senator Raines obtained fame which is almost world-wide, as the author of the Raines liquor law,—the most important and most controverted piece of legislation that has been placed on the statute books of the state in a generation. He persistently defended it at all times, insisting that the allegation that it fostered

illegal resorts was untrue, and that where such places flourished, it merely proved the inefficiency of the local police forces.

Senator Raines was also the author of the law providing for the use of blanket ballots at elections. This form of ballot is still in use in all election districts of the state where voting machines have not been installed. He was also the promoter of a state constabulary bill, the passage of which was threatened on several occasions.

Warren D. Bartholmew, attorney for the Chicago Railway Company, was recently married at Springfield, Illinois to Miss Mabel McCraney.

Mr. Lloyd Griscom, formerly Ambassador to Italy, has formed a legal partnership with S. Stanwood Menken, of New York city. After a long career in the diplomatic service, Mr. Griscom retired last June, and has since been living in France.

Frederick W. Kelsey, a lawyer of Joplin, Missouri, and Miss Blanch Sergeant, also of Joplin, were married at Rosedale, Mississippi, on November 30th.

Eugene W. Chafin, of Chicago, Prohibition candidate for President in 1908, was admitted to practice before the Supreme Court of the United States on December 15th. Mr. Chafin was introduced to the court by Senator Robert M. La-Follette, of Wisconsin, who was a college classmate of Mr. Chafin.

Judge S. T. Sutphen died suddenly from heart failure on December 11th, at Defiance, Ohio. He was for years one of the most prominent attorneys of Defiance county, and had served as prosecuting attorney and common pleas judge.

Walter Burton Cope, a member of the San Francisco law firm of Morrison, Cope, & Brobeck, died a short time since at San Francisco, at the age of forty-eight. At one time he was district attorney, and in 1890 was elected judge of the superior court at Santa Barbara. Judge Cope was for three years president of the San Francisco Bar Association, and at the time of his death was one of the trustees of Hastings College of Law.

Jerome B. Kimball, former attorney general of Rhode Island, died in Providence on December 3d, after an illness of nearly fifty years, at the age of seventy-seven. He was one of the brilliant lawyers and orators of the stirring times just before the Civil War.

Judge John Ewing Garner, dean of the Tennessee bar, died at his home in Springfield, Tennessee, on November 30th, in the eighty-ninth year of his age. Judge Garner was a member of the constitutional convention of 1870, which framed the present Constitution of the state.

Charles L. Abbott, assistant in the office of United States District Attorney Sims, of Chicago, has resigned his Federal position for the purpose of resuming his private practice in Elgin, Illinois.

E. P. Rosenberger, a well-known attorney and member of the Missouri legislature, and Miss Lucile Dowell, were married Wednesday morning, December 8th, at Montgomery, Missouri.

NEW OR PROPOSED LEGISLATION

A recent act of the Rhode Island legislature provides that marriage licenses cannot legally become effective until five days after they have been obtained.

Tacoma, Washington, has recently followed the example of several other cities, and has adopted a new city charter providing for government by a commission

by a vote of 5 to 1, the city to be in charge of a mayor, four councilmen, and comptroller.

Boston, also, at the fall election, adopted a new charter which provides for the election of a mayor for a term of four years, and a city council composed of nine members, elected at large, for three-year terms, three to be elected each year. The mayor is to be subject to recall by a majority vote at the end of two years, and nominations for these offices are to be made by petition, and no party designation is to appear on the ballot.

Seth Low, as president of the National Civic Federation, has announced that the conference on uniform legislation will be held in Washington January 17-19, 1910, at which time the special commission appointed by different state governors on a uniform divorce law will make its report. Mr. Low's announcement says the supreme necessity for uniform law grows out of the condition that a child, under the various divorce laws, may be legitimate in one state, but illegitimate in another.

BAR ASSOCIATIONS

A banquet to the bench and bar of the seventh congressional district of Georgia was given by Hon. Wright Willingham on November 16th at Rome. It was successful in all particulars. A large number of able members of the bar were among the speakers. Senator Bacon, the senior senator from Georgia, was with them.

On the eve of the organization of the California Bar Association, November 9th, the bar of San Francisco tendered a banquet to the delegates to the state bar association at the St. Francis Hotel, at which more than two hundred and fifty lawyers were present. Hon. Curtis H. Lindley, president of the San Francisco Bar Association, presided, and splendid speeches on the necessity for reform were made by Hon. M. T. Dooling, judge of the superior court of San Benito county, Lynn Helm, president of the bar association of Los Angeles, Governor J. N. Gillett, and others.

The meeting for the organization of a state bar association was held on the morning of November 10th, when a committee of seven was named to prepare a constitution and by-laws. Upon their report in the afternoon, the constitution and by-laws were adopted as presented. On motion of Lynn Helm, of Los Angeles, it was decided to hold the next meeting of the association in that city in November, 1910. Officers for the ensuing year were elected as follows: President, Curtis H. Lindley, of San Francisco; vice presidents, first district M. K. Harris, of Fresno; second district, Lynn Helm, of Los Angeles; third district, F. W. Street, of Tuolumne; secretary, E. J. Mott, of San Francisco; treasurer, T. W. Robinson, of Los Angeles.

Attorneys of Aurora, Illinois, recently met in the council chambers in the city hall for the purpose of organizing an Aurora Bar Association. A permanent association was perfected, and the first annual banquet held on November 23d. The following officers were elected: President, Judge M. O. Southworth; associate vice presidents, Benjamin P. Alschuler and John Peffers, secretary, Harvey Gunsul; treasurer, Bruce Amell; necrologist, Charles Love.

The fifth annual meeting of the Wayne County, New York, Bar Association, was recently held at Newark, at which the following officers were elected: President, Hon. Pliny T. Sexton; first vice president, Hon. Clyde W. Krapp; second vice

president, De Lancey Stowe; secretary, G. G. Harris; treasurer, B. C. Williams; executive committee, C. T. Ennis, H. B. Exner, and Joseph Gilbert. After the meeting, the annual banquet was held in the Gardinier House. Hon. Peter B. McLennan, presiding justice of the appellate division of the New York supreme court, fourth department, was the speaker.

Announcement was recently made by Secretary Edward B. McCarter, of the Ohio Bar Association, that the next annual meeting of the association will be held at Cedar Point on July 6-8.

At the recent annual meeting of the St. Louis, Missouri, Bar Association, officers were elected as follows: President, Judge Taylor; vice presidents, O'Neill Ryan, Clifford B. Allen, and Thomas K. Skinker; secretary, Samuel B. McPheeters; treasurer, Robert Burkham.

The semiannual banquet of the Lake County, Illinois, Bar Association, was held on November 3d at Waukegan. Elam Clarke acted as toastmaster, and Judge Charles G. Neeley, of Chicago, gave an inspiring address.

The Sullivan County, Indiana, Bar Association, held its annual meeting at Sullivan on November 26th, and elected the following officers: President, Lee F. Bays; vice president, P. J. Lindley; secretary, Mrs. A. D. Leach; treasurer, Clayton Price; marshal, W. P. Stratton. The annual banquet was held in Terre Haute on December 13th.

The Atlanta, Georgia, Bar Association held its annual banquet and meeting on December 4th, at the Aragon Hotel. The following new officers were elected for the coming year: President, Alex W. Smith; first vice president, E. M. Mitchell; second vice president, E. W. Martin; secretary and treasurer, Harvey Hatcher; executive committee, L. C. Hopkins, V. A. Batchelor, and H. C. Peeples. A brilliant address was delivered by Judge Henry C. Hammond, of Augusta, on "Less Form and More Substance."

The annual meeting of the Litchfield County, Connecticut, Bar Association was held at Winsted on December 3d, at which officers were re-elected as follows: President, Donald T. Warner, of Salisbury; vice president, Wellington B. Smith, of Winsted; secretary, Dwight C. Kilbourn, of East Litchfield; treasurer, Frank B. Munn, of Winsted.

The Lawyers' Club of Newark, New Jersey, held its annual meeting on December 3d, and elected the following officers: President, Edward D. Duffield; vice president, Thomas J. Lintott; secretary, Albert W. Harris; treasurer, Frederick Scharringhausen; trustees, Worrell F. Mountain, Andrew Van Blarcom, and Hugh B. Reed.

The new officers of the Milwaukee County Bar Association are: President, George D. Van Dyke; vice president, Christian Doerfler; secretary, Carl Geilfuss; treasurer, Clinton G. Price; executive committee, C. H. Van Alstine, Edgar L. Wood, and Walter L. Bender.

The Rochester, New York, Bar Association, at its annual meeting, held on December 15th, elected the following officers for the ensuing year: President, William W. Webb; first vice president, Charles Van Voorhis; second vice president, Joseph B. Hone; treasurer, Eugene M. Strouss; secretary, Eugene Raines; trustees, Clarence W. McKay, John S. Bronk, Nelson E. Spencer, Ernest B. Millard, Harlan W. Rippey, Richard E. White, William F. Love, and Raymond E. Westbury.

The Lancaster, Pennsylvania, Bar Association has chosen the following officers for the ensuing year: President, W. U. Hensel; vice president, A. F. Hostetter; secretary, John W. Appel; treasurer, D. McMullen; board of censors, W. N. Appel, John E. Malone, W. H. Keller, W. R. Brinton, and G. Ross Eshleman.

At the annual meeting of the Middlesex County, Massachusetts, Bar Association, the following named officers were

elected: President, Samuel K. Hamilton, of Wakefield; vice presidents, George F. Richardson, of Lowell, and Robert P. Clapp, of Lexington; members of council for three years, Selwyn Z. Bowman, of Somerville, Samuel J. Elder, of Winchester, Marcellus Coggan, of Malden, James W. McDonald, of Marlboro, and George E. Smith, of Everett.

The Oneida County, New York, Bar Association has chosen the following officers for the ensuing year: President, Hon. Thomas S. Jones; first vice president, Frederick G. Fincke; second vice president, John D. Kernan; secretary, Hon. William K. Harvey; treasurer, Ward J. Cagwin; directors, Thomas S. Jones, Hon. John D. McMahon, H. C. Sholes, John C. Davies, B. A. Capron, William E. Lewis, J. T. A. Doolittle, Rudolph C. Briggs, and W. S. Mackie.

LAW SCHOOLS

Harry Alonzo Cushing, acting dean of the law school of Columbia University, recently resigned.

At the recent annual banquet given by the senior class of the Indiana Law School in honor of the juniors, the classes derived so much benefit from the program of toasts and speeches that they voted to combine and make it a monthly affair. L. Ert Slack gave an interesting talk on "Getting In, Getting Through, and Getting Out" of the law school. Thomas A. Daily, former state representative from Marion county, Indiana, addressed the November meeting of the combined classes on "Experiences of a Young Lawyer."

The Kentucky School of Law was organized at Frankfort on November 16th, by Secretary of State Ben L. Bruner, Assistant Attorney General John F. Lockett, W. W. Patterson, Sherman Bell, W. R. Lyons, and Robert Cook. The judges of the court of appeals constitute the faculty for the school. The first meeting was held on November 19th, at which W. W. Patterson lectured on the subject of contracts.

The board of directors of the Y. M. C. A. at Toledo, Ohio, recently formally turned its law school over to the Toledo University. A thorough three-year course is now offered, leading to the degree of LL. B. The faculty consists of Harry E. King, Judge J. A. Barber, and Judge A. E. Rowley, lecturers, and Judge Curtis T. Johnson, George E. Seney, Scott Rowley, Judge Herbert P. Whitney, Ben W. Johnson, Cornell Schreiber, Judge S. N. Young, M. D. Merrick, W. S. Thurston, Jr., Albert H. Miller, and A. A. Schwartz, professors of law. A new feature of the department is a series of lectures on political science by Professor Jerome H. Raymond.

The vacancy in the faculty of the law school of the University of Maryland caused by the recent death of the dean, John Prentiss Poe, has been filled by the election of Judge Henry D. Harlan to that office. Some of the courses previously directed by Mr. Poe are to be distributed among several professors. Mr. William L. Marbury, of the class of 1882, will lecture on the subject of torts during the second half of the year, Judge James B. Gorter will become lecturer on evidence, and Mr. Joseph C. France on pleading and practice.

NEW LAW BOOKS

"Revisal of North Carolina." By George P. Pell. 2 vols. $15.

Willis on "Contracts." 1 vol. $3.

"Supplement to Dames's Nebraska Probate Practice." 1 vol. $2.

"Cumulative Supplement to West Virginia Code." (1909.) $5. (Ready about February 1st.)

"Michigan Reports." Vol. 156. $2.50.

"Illinois Appellate Reports." Vol. 145. $3.50.

Simmons's "Wisconsin Digest." In 3 vols. Buckram, $30. Vol. 1 now ready.

Pattee's "The Essential Nature of Law." $2.50.

Shepard's "Wisconsin Citations." $7.50.

"General Business Corporations in Michigan." By Burritt Hamilton. 1 vol. Buckram, $4.

"Real Property." By Herbert T. Tiffany. 2 vols. Buckram, $13.

"The Ohio Cumulative Digest." Being a supplement to Vol. 5 of the Complete Ohio Digest. Three numbers will be issued each year, each number to be cumulative. The first number will be ready in January, the second June 1st, and the third on October 1st. $3.75 per year.

Shepard's "Georgia Citations." 1 vol. Flexible morocco, $10.

"Shippers and Carriers of Interstate Freight." By Edgar Watkins. 1 vol. Buckram, $6.

"Cases in Equity." By N. T. Abbott. 1 vol. Buckram, $6.

"Texas Criminal Reports." Vol. 55. $3.

"Virginia Colonial Decisions." 1728-1743. Reported by Sir John Randolph and Edward Barradall, with historical introduction by R. T. Barton. 2 vols. Buckram, $7.

"General Theory of Law." By N. M. Korkunov. Translated by W. G. Hastings. $3.50.

"Complete Digest of the Nevada Reports." By Edward T. Patrick. $15. To be published if a guarantee of a sale of 400 copies can be had.

"Personal Injuries and Somewhat of the Relation of Master and Servant." (Louisiana.) By J. D. Wilkinson. $7.

"Financing an Enterprise." By Francis Cooper. 3d ed. 2 vols. Buckram, $4.

Wigmore's "Pocket Code of Evidence." 1 vol. Limp leather, $4.

"Business Forms." By Victor D. Cronk. (Wisconsin and Minnesota.) 1 vol. Buckram, $6.

Singer's "Copyright Laws of the World." $2.

Singer's "Patent Trademarks." 2d ed. $2.50.

Baty's "International Law." Cloth, $2.75.

"Science of Organization and Business Development." By Robert J. Frank. Revised edition. (Chicago Commercial Publishing Company.) $2.75.

In this little volume Mr. Frank carries the reader through the various steps necessary to organize a corporation and launch it in a way to lead to business success. Such matters as capitalization and its forms, the method of raising the capital, corporate management, officers and their duties, promotion, and the other matters relating to the business of creating and handling corporations, are fully covered, while an appendix contains forms sufficient to meet most of the problems which will be encountered in actual practice.

RECENT ARTICLES IN LAW JOURNALS & REVIEWS

"The Last Illinois Primary Law Decision."—4 Illinois Law Review, 227.

"Employer's Liability."—4 Illinois Law Review, 243.

"The Illinois Ten-Hour Labor Law for Women."—8 Michigan Law Review, 1.

"The Commerce Clause and Taxation of Gross Receipts and of 'Intangible Property.'"—8 Michigan Law Review, 25.

"The German Lawsuit without Lawyers."—8 Michigan Law Review, 30.

"The Art of Cross-Examination."—10 Criminal Law Journal of India, 19, 33.

"The Theory of Absolute Privilege in Our Criminal Courts."—10 Criminal Law Journal of India, 39.

"Foreign Corporation Laws."—39 National Corporation Reporter, 470.

"The Corporation and Income Taxes."—39 National Corporation Reporter, 471.

"Last Clear Chance and Wanton or Wilful Misconduct."—39 National Corporation Reporter, 472.

"Money Paid under Mistake."—9 The Brief, 122.

"Amending the Federal Constitution."—13 Law Notes, 146.

"Is the Automobile a Dangerous Machine?"—13 Law Notes, 149.

"Contingent Fees—the New Suggestion of Judicial Supervision."—69 Central Law Journal, 355.

"Receivers Suing in Foreign Jurisdictions. II. Those Cases in Which the Determining Feature is the Parties to or Affected by the Suit."—69 Central Law Journal, 335.

"Homicide in Defense of Life or Property."—73 Justice of the Peace, 550.

"Intoxicating Liquor Licenses: Partners and Managers."—73 Justice of the Peace, 551.

"Liability of Eleemosynary Corporations for the Torts of Their Agents."—42 Chicago Legal News, 122.

"Accidents on the Stairways of Flats."—128 Law Times, 23.

"The Judicial Treatment of Juvenile Offenders."—35 Law Magazine and Review, 1.

"Imprisonment for Debt."—35 Law Magazine and Review, 8.

"Form of Will of an Alien in France."—35 Law Magazine and Review, 34.

"The Bar in Austria-Hungary."—35 Law Magazine and Review, 42.

"Copyright."—35 Law Magazine and Review, 59.

"Progress of the Game Laws."—35 Law Magazine and Review, 73.

"Ownership of Land by Corporation."—39 National Corporation Reporter, 389.

"The New Federal Corporation Tax." 39 National Corporation Reporter, 399.

"Married Women—Independent Advice."—45 Canada Law Journal, 653.

"The Right of Audience."—44 Law Journal, 640.

"The Criminal and Law Reform (Concld.)"—10 Criminal Law Journal of India, 17.

THE HUMOROUS SIDE

THE HORSE DIDN'T "LOOK" GOOD.—A Scandinavian had a horse that he wished to sell to his friend Pat. Pat viewed the horse and exclaimed: "That horse seems to be all right." The Scandinavian said: "But he dosen't look good." Pat rejoined by saying: "That horse looks good to me." "Vel, he doesn't look good," said the Scandinavian. Pat bought the horse. Next day he returned to the Scandinavian with the horse and said: "The horse you sold

me is blind." "Vel," said the Scandinavian, "I told you the horse did not look good."

AFFIDAVIT FOR "ASALT AND BATERY."

State of Indiana, ——— County, SS.
Before ———, a justice of the Peace in said county. State of Indiana, vs. Affidavit for Asalt and Batery.

hoos sristen nane Is unnoon ———being duly sworn on oath says; that ——— hoos crisshen name is unnoon, late of said county, on or about the first day of July, A. D. 1909 at the county of ——— State of Indiana, ——— Township, as affiant verily believes Did then and there unlawfully tooch and strike and Wond one ——— In a Rude and angry Manner.

second Cont

——— 1 complanes of ——— and says that the Defendant one the first Day of July, 1909, In a Rude Insolent and angry Manner Unlawfully tuched strok Bete and Wanded the plaintiff to his Damage $50.00 Dolers.

contrary to the form of the statutes in such cases made and provided and against the peace and dignity of the State of Indiana.

Subscribed and sworn to before me this 2 day of May, 1909.

Justis of the Pease.

A BRIEF MARRIAGE CEREMONY.—A man of Spanish descent was once elected justice of the peace at Guadaloupe, in southern Colorado. Before the new justice, who understood but little English, had thought of preparing a marriage ceremony, a couple appeared and asked to be united in the holy bonds of matrimony. The justice required them to stand before him, and, addressing the man, said: "You marry?" The man replied, "Yes." Then, turning to the woman, the justice said: "You marry?" She also replied, "Yes." The justice thereupon said to both: "Bueno," and the ceremony was concluded.

IN PROPRIA PERSONA.—The following answer was recently filed in the State of Washington by a defendant who expressly refused to have anything to do with lawyers:—

To Exhibit A.

In the Superior Court of Washington for C——— County.

(Ans. to the Summons.)

—. —. Mc———, Plaintiff,

vs.

C. W——— B———, Defendant.

For Collection of one Promissory Note given Nov. 11, 1907 A. D. $150.

Due April 15, 1908 Cr. May 20, 1908 $50.

Secured by chattles, filed November 16th.

Answers:

The the execution should not be allowed prior to Sep. 1908 for the following reasons viz; That said J. R. Mc—— on or about April 13, 1908 mutually agreed to allow note to run till Sep. 1908 at intrests from April 15.

II. That said J—. R—. Mc——— did not demand payment prior to this action.

III. That the defendant voluntary maid payment of one other promisory note of 40$ secured by chattles.

IV. That the defendant also has maid cash payments to the amt. of 50$ which were volentary and have been Cr. on the Note which shows to coroberate that there were an extention of time for payment.

V. That said J—. R—. McD——— and wife have money insavings & deposits therefore are not in need; while the defendant is in stringent financial condition with his sister and her family to support and is at wage working while crops are developing having growing crops on the Mc———P——— farm that is rented from J—. R—. Mc——— & other assurance given and excepted for rent.

VI. That this action was brought because of spite or grievience caused between house keepers Mrs. C—— O—— & Mrs. J—. R—. M——— My sister demanding our Share of and the needed house room That said J—. R—. Mc—— has made stringent efforts to compell, or influence the Defendant C—. W———

B——— to grant said Mc——— to freely accupy the premises.

VII. That the defendant offered volentarily a Bill of sale of the chattl securing the notes incumber prior to any action.

Signed C. Wesley Brown

I, C—. W——— B——— have personally written the foregoing instrument as answering the summons why execution should be delayed or not allowed by this complaint.

C—. W—. B———

O———, Wash.

Subscribed and sworn to before me this 26th June 1908.

(Signed)

———————

County Clerk

WANTED HER DIVORCE.—The following letter was received by an Oklahoma attorney:

August the 23 1909

——— Oklo.

Mr k dear Sire

i Will rite yu a feW lines to See if you are Still giten my devorse are not i want my devorse this SePtemBer Cort Be Shure and git it and When yu Want me to Come yu cane let me now i Want the devorse shure yu rite me a Card as quick as yu git this letter So i Will now from

Miss M—— B——.

i saw the nams in the Paper But mine and diden now what to due and yu rite me a Card So i Will now rite now

to Mr Jug [Judge] k.

THE WISDOM OF SILENCE.—The late Judge Silas Bryan, the father of William J. Bryan, once had several hams stolen from his smokehouse. He missed them at once, but said nothing about it to anyone. A few days later a neighbor came to him.

"Say, judge," he said, "I heard yew had some hams stole t'other night."

"Yes," replied the judge very confidentially, "but don't tell anyone. You and I are the only ones who know it." —Success Magazine.

GAVE IT UP.—The late Judge Hamlin, former attorney general of Illinois, was once engaged in the trial of a cause before a judge who was not inclined to tolerate tardiness on the part of attorneys. When he adjourned court at noon, he took occasion to impress upon the lawyers that court would reconvene at 1:30 o'clock exactly. He was almost speechless with rage when Mr. Hamlin walked into the court room shortly after 2 o'clock, apparently oblivious of any offense.

"Judge Hamlin," exploded the indignant and outraged court, "your violation of the instructions of this court is most reprehensible. Orders issued from this bench must be obeyed. What do you suppose the people elected me for?"

"Well, judge," drawled Hamlin, his eyes twinkling with merriment, "that matter always has been a mystery to me."

UNSPOTTED.—At a dinner attended by the late Governor Johnson, a New York millionaire said, in reference to his taxes: "I've got a little piece of property that brings me in a fair rental, and the tax gathers haven't spotted it yet. I don't know whether I ought to tell them or not. What would you do, Governor Johnson?

The Governor's eyes twinkled. "It's the duty of every man," he said, "to live unspotted. Still if I were you, I'd pay up."—Washington Star.

TAKEN IN.—He was a little German man, and as he boarded the car he had such a happy smile on his face that the smoker on the platform asked:

"Well, Jacob, is this a Happy New Year's for you?"

"She vhas so happy dot maype I bust myself oop!" was the reply.

"Something good has happened, eh?"

"Der best effer. Schmidt und I vhas partners from to-day."

"Let's see? Schmidt is in the ice business, I believe?"

"He vhas."

"And you have been working for him?"

"Shust so."

"And to-day——?"

"Und to-day we vhas partners. I vhas tooken in. Schmidt he handles all der money und I handles all der ice. By golly but I vhas a happy mon!"